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C.B., Appellant)	
)	
and)	Docket No. 07-177
)	Issued: March 22, 2007
DEPARTMENT OF VETERANS AFFAIRS,)	
VETERANS ADMINISTRATION MEDICAL)	
CENTER, Fresno, CA, Employer)	
)	

Case Submitted on the Record

Before:
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge
JAMES A. HAYNES, Alternate Judge

On October 5, 2006 appellant timely appealed an October 3, 2006 merit decision of the Office of Workers' Compensation Programs, which terminated his compensation benefits. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d), the Board has jurisdiction over the merits of the claim.

The issue is whether the Office properly terminated appellant's wage-loss compensation and medical benefits effective October 1, 2006.

On August 24, 2005 appellant, then a 48-year-old housekeeping aide, sustained an injury at work when he tripped over a floor buffer and struck his left knee on the buffer as he fell. The

Office accepted his claim for left knee lateral meniscus tear.¹ Appellant performed light-duty work for approximately five months following his injury. However, he stopped work on January 31, 2006. On March 29, 2006 appellant underwent a left knee arthroscopic procedure, which the Office authorized.² The Office placed appellant on the periodic compensation rolls effective March 5, 2006.

In a July 13, 2006 letter, Dr. Kwock, the attending orthopedic surgeon, advised that appellant's bilateral knee condition had been treated and stabilized to the point that no further active treatment surgically was anticipated. He indicated that appellant was permanently disabled from work requiring any substantial walking or being on his legs for any prolonged periods of time lifting, pushing or the like. Appellant was limited to sedentary-type jobs.

Dr. Alice M. Martinson, a Board-certified orthopedic surgeon and Office referral physician, examined appellant on July 31, 2006. She diagnosed cardiac rhythm disturbance by history and post-traumatic arthritis in both knees, right worse than left.³ Dr. Martinson noted that recent x-rays from June 2006 revealed severe three compartment osteoarthritis of the right knee with mild to moderate osteoarthritis of the lateral and patellofemoral compartments of the left knee. When compared with earlier x-rays, she indicated that there had been substantial progression of the right knee arthritis since 2003 and only minimal progression in the left knee during the same time frame. Dr. Martinson stated that the surgery performed on March 29, 2006 did not reveal any new intraarticular changes that had not been present at the time of appellant's previous arthroscopy in February 2005. She was of the opinion that the August 24, 2005 injury did not permanently aggravate appellant's left knee condition either by altering his anatomy or by changing the natural history of his osteoarthritis. Dr. Martinson stated that appellant's disability was the consequence of the combination of severe and progressive bilateral knee osteoarthritis and his nonindustrial cardiac condition.

By decision dated October 3, 2006, the Office terminated appellant's wage-loss compensation and medical benefits effective October 1, 2006.⁴

LEGAL PRECEDENT

Once the Office accepts a claim and pays compensation, it bears the burden to justify modification or termination of benefits.⁵ Having determined that an employee has a disability causally related to his or her federal employment, the Office may not terminate compensation without establishing either that the disability has ceased or that it is no longer related to the

¹ Appellant had a preexisting bilateral knee condition and had undergone left knee arthroscopic surgery for internal derangement on February 2, 2005.

² Dr. John F. Kwock, a Board-certified orthopedic surgeon, performed both the February 2, 2005 and March 29, 2006 left knee arthroscopic procedures.

³ During the spring of 2006 appellant was hospitalized for arrhythmia, which required cardioversion. He advised Dr. Martinson that his cardiac problem began in September 2005.

⁴ The Office issued a notice of proposed termination of benefits on August 22, 2006.

⁵ *Curtis Hall*, 45 ECAB 316 (1994).

employment.⁶ The right to medical benefits for an accepted condition is not limited to the period of entitlement to compensation for disability.⁷ To terminate authorization for medical treatment, the Office must establish that appellant no longer has residuals of an employment-related condition which require further medical treatment.⁸

ANALYSIS

In a July 13, 2006 letter, Dr. Kwock indicated that appellant was permanently disabled from work requiring any substantial walking or standing for prolonged periods. He recommended that appellant be limited to performing sedentary-type jobs. What Dr. Kwock did not indicate, however, is whether appellant's current disability was a consequence of the August 24, 2005 left knee injury or a result of appellant's preexisting bilateral knee condition. In contrast, Dr. Martinson clearly explained that appellant's current disability was unrelated to his accepted employment injury. She noted that appellant was primarily disabled by his nonindustrial right knee condition. Dr. Martinson also explained that the August 24, 2005 employment injury did not result in a permanent alteration of appellant's anatomy or otherwise hasten the progression of his preexisting osteoarthritis. The Board finds that Dr. Martinson's opinion establishes that appellant no longer has employment-related disability or residuals due to his August 24, 2005 accepted employment injury. Accordingly, the Office properly terminated appellant's wage-loss compensation and medical benefits.

CONCLUSION

Appellant no longer has residuals of his August 24, 2005 employment injury. The Office, therefore, met its burden to terminate appellant's wage-loss compensation and medical benefits.

⁶ *Jason C. Armstrong*, 40 ECAB 907 (1989).

⁷ *Furman G. Peake*, 41 ECAB 361, 364 (1990); *Thomas Olivarez, Jr.*, 32 ECAB 1019 (1981).

⁸ *Calvin S. Mays*, 39 ECAB 993 (1988).

ORDER

IT IS HEREBY ORDERED THAT the October 3, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 22, 2007
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge
Employees' Compensation Appeals Board